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SIMMONS BEDDING COMPANY  
and Defendant and Counterclaimant  
DREAMWELL, LTD.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ZINUS, INC., a California corporation,  
Plaintiff,

v.

SIMMONS BEDDING COMPANY, a  
Delaware corporation, and DREAMWELL,  
LTD., a limited liability company of  
Nevada,

Defendants.

Case No. 07-CV-03012-PVT

**[PROPOSED]  
ORDER GRANTING SIMMONS' MOTION  
TO DISMISS**

Date: October 9, 2007  
Time: 10:00 a.m.  
Before: The Honorable Patricia V. Trumbull  
Location: Courtroom 5

**AND RELATED COUNTERCLAIMS**

On October 9, 2007, defendant Simmons Bedding Company's ("Simmons") Motion to Dismiss was heard in this Court before the Honorable Magistrate Judge Patricia V. Trumbull. After considering the materials and oral argument presented to the Court, and good cause appearing:

IT IS HEREBY ORDERED that Simmons's motion is granted. Zinus's Amended Complaint is hereby dismissed with prejudice to the extent it is directed at Simmons, with the

1 exception of the Fourth Cause of Action for Breach of Contract, which is dismissed with leave to  
2 amend.

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4 Dated: \_\_\_\_\_

5 \_\_\_\_\_  
6 The Honorable Patricia V. Trumbull  
7 United States Magistrate Judge  
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